

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

**CLERK'S MINUTES**

*Before Special Master Vickie L. Gabin*

**Case No.:** 69cv07941-BB-ACE

**Date:** May 8th, 2006

**Title:** State of New Mexico, et al. v. Aragon, et al.

**Courtroom Clerk:** J. McCabe

**Court Reporter:** none

**Court in Session:** 9:36 a.m.

**Court in Recess:** 10:15 a.m.

**Type of Proceeding:** Status Conference for Sections 3, 5, and 7

**Attorneys:** See attached

**Proceedings:**

This was a status conference set by order no. 8214 to discuss the following:

- 1) **The general status of the adjudication of Sections 3, 5, and 7.** Mr. Newville (EN) reports on the general status for the three sections. The State is in the process of wrapping up loose ends on subfiles, serving people, and making contact with claimants who have not responded yet. The majority of individual subfiles open are in Section 7, there a few remaining in Section 3, and Section 5 should be complete by the year-end. (See attached chart for a detailed summary). The upcoming plans are for depositions and historical work in Tierra Amarilla (TA). There are no scheduled field sessions for this summer.
- 2) **The status of resolution of the Suazo and Ranchitos ditch issues.** EN reports the mapping has been completed. Of the five proposed orders two have been signed and approved. The Consent Orders have a priority date of 1735. Mr. Waltz (FW) appreciates the facilitation which occurred with the OSE HSR staff, this process could serve as a model for future resolutions. Within the month FW will move to re-enter the priority dates for the five consent orders. Due to the upcoming drought the priority dates will be important.
- 3) **The status of federal non-Indian, non-Wild and Scenic River claims in Section 5, and any necessary amendments to the March 1, 2005, Scheduling Order, as amended (Nos. 7770 and 8029).** SEE BELOW (one discussion)
- 4) **The status of the quantification of the United States of America's claims under the Wild and Scenic Rivers Act, pursuant to the Initial Scheduling and Pretrial Order for the Adjudication of Wild and Scenic River Claims entered July 18, 2005 (Docket No. 7952).** Ms. Singer (AS) and Mr. Gehlert (DG) are in correspondence over existing claims, new claims, and new errors. There is not an

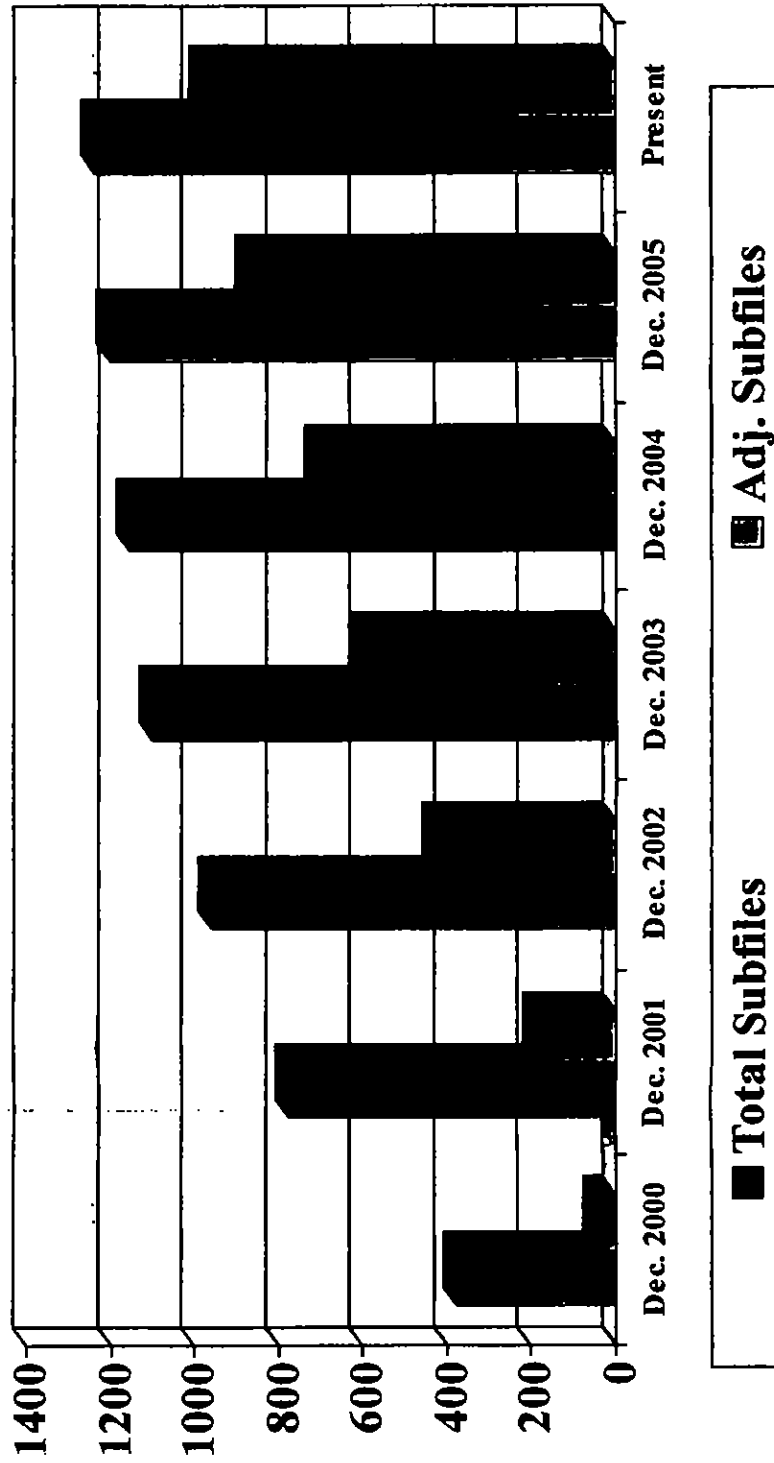
8307

agreement on how to address these claims yet. The priority is to complete Section 5 first then move to then Section 3 (per EN there is a scheduling order for these claims). AS will submit a status report to the Special Master (SM) on the Wild and Scenic Claims and on the stock water claims. MH requests the State and the U.S. notify the Acequia association when filed work will be conducted so the acequia association can have their technical person present too. DG agreed to MH's request.

- 5) **The status of an agreement on the consumptive irrigation requirements for Section 5, and the necessity, if any, for a scheduling order supplementing the Order entered February 15, 2005 (No. 7761).** Ms. Humphrey (MH) reports that she and the state are in negotiations with the State on one CIR element. EN says the Sec. 5 determination is an acceptable quantity amount. He has requested to do a survey to complete the fallow issue in the adjudication. This may take 2-3 months but it is a priority. MH is in agreement with this time frame. MH reports on Gallina (Section 5), there are 2 more Consent Orders on customs and CIR (if they come to an agreement), then the parties can move into *inter se*. FW comments that at the last status conference in TA, 2-14-06, he alerted the Court about the CIR issue. While he does not want to interrupt the process for the entire basin, any fallow land would have a direct impact on his clients. FW suggests the State and MH be open to a meeting to discuss this issue. Mr. Utton (JU), representing the Acequias Norteñas, does not share the same concern as FW but he does have a general concern of how CIR will be used throughout the basin. He has agreed with the modified the Blaney-Criddle method.
- 6) **The status of work completed under the March 14, 2005, Procedural Order for Completion of Primary Subfile Work and Resolution of Errors and Omissions for Section 2 (No. 7785) and the necessity for further procedural and scheduling orders.** MH continues to operate under the same Scheduling Order for Errors & Omissions and their data is not in order to request further procedural or scheduling orders.
- 7) **The status of disputed Subfile No. CHRU-003-0001 (water rights claimants Peralta and Vogt).** Mr. Padilla reports the dispute has been settled and he will work with the State on producing an accurate map and consent decree. Mr. Padilla expects to have a proposed order ready in 60 days or so. Mr. Padilla is excused from the Status Conference. Later in the status conference his co-counsel, Mr. Friedman arrives and reports he will file a joint motion for extension of time so everything will be ready for July 7<sup>th</sup>. He also adds the State's deadline to request a hearing is September 12, 2006. The need for the extension of time is to determine how many acres each party will agree to.
- 8) **Other relevant matters, including any questions regarding the pending litigation of the water rights claims associated with Subfile Nos. CHTA-001-0001,-0002,-0003; CHTA-002-0001,-0002, and -0003; and CHTA-003-0001.** EN reports that the historian work may be significant. EN will make a motion to set a general status conference in August to discuss the situation.
- 9) **Discussion of streamlining service in this adjudication and ensuring that counsel are notified of appropriate service requirements.** The Special Master agreed to write a letter to counsel reminding them of existing service requirements and of the electronic options.

- 10) Items which should be included in the next status conference set for Tuesday, August 8, 2006, in Chama New Mexico area.** 1) service for *Pro Se's* in the electronic filing system, 2) Section 7, Jicarilla and Willow Creek Ranch claims. This is a groundwater claim, not a surface water claim, and outside the 2002 procedural order

# Upper Rio Chama (Sect. 3, 5 & 7) Subfiles to Date



CHAMA TOTALS 1/1/06 to 5/1/06					
SECTION	TOTAL SUBFILES	ORDERS SENT	ORDERS APPROVED	OPEN SUBFILES	
Rio Gallina	133	0	0	0	
Rio Nutrias	45	10	5	10	
Rio Cebolla	71	4	2	8	
Canjilon Creek	238	1	0	55	
Tierra Amarilla	124	14	12	47	
Rio Brazos	320	66	7	100	
Rutheron/Plaza Blanca	93	15	5	17	
Canones Creek	65	14	2	23	
Chama Village	142	26	9	52	
<b>TOTALS</b>	1231	150	42	312	
<b>Total Acres</b>	18,869		1,657	4,815	

**RIO CHAMA COUNSEL OF RECORD**

**May 1, 2006**

✓ Special Master Vickie L. Gabin  
United States District Court  
P.O. Box 2384  
Santa Fe, NM 87504-2384

-----  
Jeffrey H. Albright, Esq.  
Cynthia A. Loehr, Esq.  
P.O. Box 1027  
Albuquerque, NM 87103-1027

Lee Bergen, Esq.  
4110 Wolcott Ave NE, Suite A  
Albuquerque, NM 87109

Frank Bond, Esq.  
P.O. Box 5333  
Santa Fe, NM 87502-5333

tele  
conference  
Bradley S. Bridgewater, Esq.  
David W. Gehlert, Esq.  
USDOJ-ENRD  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294

Steven Bunch, Esq.  
NM State Highway &  
Transportation Dept.  
P.O. Box 1149  
Santa Fe, NM 87504-1149

Joe Van R. Clarke, Esq.  
P.O. Box 4160  
Santa Fe, NM 87502-4160

Daniel Cleavinger, Esq.  
P.O. Box 2470  
Farmington, NM 87499

Annie Laurie Coogan, Esq.  
1520 Paseo de Peralta  
Santa Fe, NM 87501

Chris D. Coppin, Esq.  
NM Attorney General's Office  
P.O. Drawer 1508  
Santa Fe, NM 87504

Tessa T. Davidson, Esq.  
P.O. Box 2240  
Corrales, NM 87048

Charles T. DuMars, Esq.  
Christina J. Bruff, Esq.  
201 Third Street NW, #1750  
Albuquerque, NM 87102

John E. Farrow, Esq.  
P.O. Box 35400  
Albuquerque, NM 87176-5400

Randolph B. Felker, Esq.  
911 Old Pecos Trail  
Santa Fe, NM 87501

Jeffrey L. Fornaciari, Esq.  
P.O. Box 2068  
Santa Fe, N.M. 87504-2068

Stacey J. Goodwin, Esq.  
300 Galisteo Street, Suite 205  
Santa Fe, NM 87501

K. JaNelle Haught, Esq.  
LANL  
P.O. Box 1663, Mail Stop  
P131  
Los Alamos, NM 87545-1663

✓ Gary S. Friedman, Esq.  
530-B Harkle Road  
Santa Fe, NM 87505

✓ Mary Humphrey, Esq.  
P.O. Box 1574  
El Prado, N.M. 87529

Mary Ann Joca,  
Asst. Reg. Atty.  
USDA-Ofc of the General  
Counsel  
P.O. Box 586  
Albuquerque, NM 87103-0586

Pierre Levy, Esq.  
P.O. Box 2084  
Santa Fe, NM 87504-2084

Randy E. Lovato, Esq.  
8100 Rancho Sueno Ct. N.W.  
Albuquerque, NM 87120-3488

✓ Edward G. Newville, Esq.  
Lisa D. Brown, Esq.  
✓ Arianne Singer, Esq.  
Office of the State Engineer  
Litigation & Adjudication  
Program  
P.O. Box 25102  
Santa Fe, NM 87504-5102

NM Acequia Commission  
Fred Vigil, Chairman  
P.O. Box 687  
Medanales, NM 87548

Brett J. Olsen, Esq.  
812 Marquette NW  
Albuquerque, NM 87102

Ernest L. Padilla, Esq.  
P.O. Box 2523  
Santa Fe, NM 87504-2523

✓ Benjamin Phillips, Esq.  
John F. McCarthy, Esq.  
Paul L. Bloom, Esq.  
Rebecca Dempsey, Esq.  
P.O. Box 787  
Santa Fe, NM 87504-0787

Marcus J. Rael, Esq.  
500 4<sup>th</sup> Street NW, Suite 200  
Albuquerque, NM 87102

Walter L. Reardon, Jr., Esq.  
3733 Eubank Blvd NE  
Albuquerque, NM 87111-3536

Peter B. Shoenfeld, Esq.  
P.O. Box 2421  
Santa Fe, NM 87504-2421

**RIO CHAMA STREAM SYSTEM  
Status Conference – Order #8214**

**Monday, May 8, 2006**

**ATTENDANCE**

**Please Print**

NAME	ADDRESS	ZIP CODE	TELEPHONE
ERNEST L. PADILLA	P.O. Box 2523, Santa Fe, NM	87504	(505) 988-7577
Chon Labrador	H.C. 75 Box 24 Tierra Amarilla N.M.		87575
Ed Newme	OSE		
Ruby Chacon	P.O. Box 163, Gallina, NM	87007	638-5386
Mary Humphrey	P.O. Box 1574, Santa Fe, NM	87505	758-2203
GARY FRIEDMAN	530-B Harkle Rd, SF, NM	87505	989-1434
Arienne Singer	P.O. Box 275		827-6156
John D. O'Neil	RCMA		
Fidel O'Neil	RCMA		
Aubrey Owen	RCMA & Ranchitos Hitch		4283-3271
Robert P. Senn	P.O. Box 6075, Las Vegas, NM	87701	
Fred J. Waltz	9214 B Kit Carson Rd, Taos	87571	758-0407